

**UNITED STATES DISTRICT COURT
OF THE DISTRICT OF OREGON
PORTLAND DIVISION**

DONALD S. MORRIS, III, as Personal Representative for the Estate of DONALD S. MORRIS, JR.,

Case No. 20-478

Plaintiff,

V.

KAISER GYPSUM COMPANY, INC.

Defendant.

NOTICE OF REMOVAL

(28 U.S.C. §1332, 28 U.S.C. §1441(b) and §1446(a))

Circuit Court of Oregon, Multnomah
County Cause No. 20CV06649

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON AT PORTLAND

1. Defendant Kaiser Gypsum Company, Inc. (“Kaiser Gypsum”) is the only defendant in this civil action, originally filed in Multnomah County on February 7, 2020.¹

2. Kaiser Gypsum was served with the summons and complaint on February 25, 2020 in North Carolina.²

3 The grounds for removal of this action are as follows:

¹ See Plaintiff's Complaint attached as Exhibit A to the Declaration of Diane Babbitt ("Babbitt Dec.") in Support of Notice of Removal.

² See Declaration of Service attached as **Exhibit B** to the Babbitt Dec.

a. Complete diversity exists between the parties:

- i. Defendant Kaiser Gypsum is incorporated in North Carolina and its principal place of business is in Irving, Texas³ and therefore is a citizen of those respective states pursuant to 28 U.S.C. §1332(c)(1).

ii. Plaintiff Donald S. Morris III is a resident of the State of Oregon and currently resides in Gladstone, Oregon.⁴

iii. Decedent Donald S. Morris Jr, whom the lawsuit is being brought on behalf of, was at all times material to this action a resident of the State of Oregon.⁵

b. Plaintiff alleges Kaiser Gypsum is responsible for personal injuries of Donald S. Morris Jr.. Upon information and belief, more than \$75,000, exclusive of interest and costs, is in controversy in this action.⁶

4. Removal of this case on the basis of diversity of citizenship is not precluded by the provisions of 28 U.S.C. §1441(b) because Kaiser Gypsum is the only defendant in this action and Kaiser Gypsum is not a citizen of the State of Oregon.

5. This Notice of Removal is timely under 28 U.S.C. 1446(b)(1) because Kaiser Gypsum was served with the original summons and complaint on February 25, 2020⁷ and this Notice is filed within 30 days of receipt of the initial pleading.

6. This case is removable on the basis of diversity jurisdiction as Plaintiff and decedent are both residents of the State of Oregon and Kaiser Gypsum, as the only defendant in the case, is a citizen of North Carolina and Texas.

7. Copies of all pleadings filed with the Multnomah County Circuit Court prior to

³ See Babbitt Dec. (need a proper cite if Diane cannot say this in her dec.)

⁴ See Plaintiff's Complaint at attached as **Exhibit A** to the Babbitt Dec.

5 *Id.*

6 *Id.*

⁷ See Declaration of Service attached as **Exhibit B** to the Babbitt Dec.

this removal are being provided to the Court.⁸

8. Pursuant to 28 U.S.C. 1446(d), promptly after filing of this Notice, Kaiser Gypsum will give written notice thereof to all adverse parties as well as file a copy with the clerk of the Multnomah County Circuit Court.

DATED this 23rd day of March, 2020.

FOLEY & MANSFIELD, PLLP

BY:

Diane C. Babbitt, OR Bar #112915
J. Scott Wood, OSB #117151
Attorneys for Defendant Kaiser Gypsum
Company, Inc.

⁸ An index of all the pleadings from the Multnomah County Circuit Court is included in the Babbitt Dec.

CERTIFICATE OF SERVICE

I, Laura McKeon, declare that I am employed by the law firm of Foley & Mansfield, PLLP, 999 Third Avenue, Suite 3760, Seattle, King County, Washington; that I am over 18 years of age and not a party to this action.

[X] **(By E-Service)** I hereby certify that on this date I electronically filed the foregoing document with the U.S. District Court of Oregon, Portland Division using the CM/ECF system which will send notification to all parties of record; and

[X] **(By E-mail)** I caused the foregoing to be delivered via e-mail to firms and persons whose email addresses are listed next to the name of the party represented as listed below:

<u>Counsel for Plaintiff</u>	
Kaitlin T. Wright SCHROETER, GOLDMARK & BENDER 500 Central Building, 810 Third Avenue Seattle, WA 98104 wright@sgb-law.com sgbasbestos@sgb-law.com	

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed this 23rd day of March, 2020 in Seattle, Washington.



Laura McKeon, Legal Assistant